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SEP 24 2004

## FAX TRANSMISSION

DATE: September 24, 2004

PTO IDENTIFIER: Application Number 09/777,225  
Patent Number

Inventor: Havekost, et al.

MESSAGE TO: US Patent and Trademark Office

FAX NUMBER: (703) 872-9306

FROM: MARSHALL, GERSTEIN & BORUN LLP

Gregory E. Stanton

PHONE: (312) 474-6610

Attorney Dkt #: 06005/35530

PAGES (Including Cover Sheet): 5

CONTENTS: Notice of Appeal (1 page) 2 copies  
Transmittal (1 page)  
Fee Transmittal (1 page)

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SEP 24 2004

PTO/SB/31 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES</b>		Docket Number (Optional) 06005/35530
	In re Application of Robert B. Havekost	
	Application Number 09/777,225-Conf. #1536	Filed February 5, 2001
	For HIERARCHICAL FAILURE MANAGEMENT FOR PROCESS CONTROL SYSTEMS	
Art Unit 2113	Examiner C. S. McCarthy	

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1))

\$ 330.00

Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ \_\_\_\_\_

A check in the amount of the fee is enclosed.

Payment by credit card. Form PTO-2038 is attached.

The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.

The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 13-2855. I have enclosed a duplicate copy of this sheet.

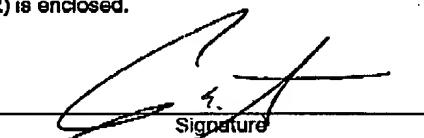
A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

I am the

applicant /inventor.

assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

attorney or agent of record.



Gregory E. Stanton  
Typed or printed name

Registration number \_\_\_\_\_

(312) 474-6300

Telephone number

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34. 45,127

September 24, 2004

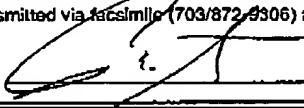
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

\*Total of \_\_\_\_\_ forms are submitted.

I hereby certify that this correspondence is being transmitted via facsimile (703/872-9306) addressed to: Commissioner of Patents, MS AF, on the date shown below.

Dated: September 24, 2004

Signature: 

(Gregory E. Stanton)

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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b>  <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/777,225-Conf. #1536
		Filing Date	February 5, 2001
		First Named Inventor	Robert B. Havekost
		Art Unit	2113
		Examiner Name	C. S. McCarthy
Total Number of Pages in This Submission	4	Attorney Docket Number	06005/36530

**ENCLOSURES (Check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Certified Copy of Priority Document(s)		
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

## Remarks

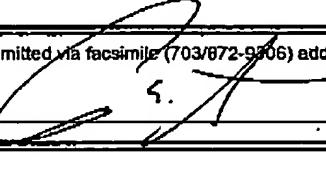
Applicants do not believe that an extension of time is required for the reasons set forth in the response filed by Applicants on September 23, 2004. If an extension of time is required, however, please consider the response filed by Applicants on September 23, 2004 as a request for the required extension of time as well as authorization to charge the referenced deposit account for the required fee.

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	MARSHALL, GERSTEIN & BORUN LLP Gregory E. Stanton - 45,127
Signature	
Date	September 24, 2004

I hereby certify that this correspondence is being transmitted via facsimile (703/672-9806) addressed to: Commissioner of Patents, MS AF, on the date shown below.

Dated: September 24, 2004

Signature: 

(Gregory E. Stanton)

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# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** (\$ 330.00)

**Complete If Known**

Application Number	09/777,225-Conf. #1536
Filing Date	February 5, 2001
First Named Inventor	Robert B. Havekost
Examiner Name	C. S. McCarthy
Art Unit	2113
Attorney Docket No.	06005/35530

**METHOD OF PAYMENT (check all that apply)**

Check  Credit Card  Money Order  Other  None  
 Deposit Account:

Deposit Account Number **13-2855**

Deposit Account Name **MARSHALL, GERSTEIN & BORUN LLP**

The Director is authorized to: (check all that apply)

Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) or any underpayment of fee(s)  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)
1051	130	2051	65
1052	50	2082	25
1053	130	1053	130
1812	2,520	1812	2,520
1804	920*	1804	920*
1805	1,840*	1805	1,840*
1251	110	2251	55
1252	420	2252	210
1253	950	2253	475
1254	1,480	2254	740
1255	2,010	2255	1,005
1401	330	2401	165
1402	330	2402	165
1403	280	2403	145
1451	1,510	1451	1,510
1452	110	2452	55
1453	1,330	2453	665
1501	1,330	2501	685
1502	480	2502	240
1503	640	2503	320
1480	130	1480	130
1807	50	1807	50
1808	180	1808	180
8021	40	8021	40
1809	770	2809	385
1810	770	2810	385
1801	770	2801	385
1802	900	1802	900

**SUBTOTAL (1) (\$ 0.00)****2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Extra Claims	Fee from below	Fee Paid
Total Claims	- =	<input checked="" type="checkbox"/> <input type="checkbox"/> =
Independent Claims	- =	<input checked="" type="checkbox"/> <input type="checkbox"/> =
Multiple Dependent		<input type="checkbox"/> =

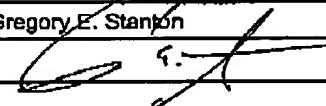
Large Entity	Small Entity	Fee Description
Fee Code	Fee (\$)	Fee Code
1202	18	2202 9 Claims in excess of 20
1201	88	2201 43 Independent claims in excess of 3
1203	290	2203 145 Multiple dependent claim, if not paid
1204	88	2204 43 ** Reissue independent claims over original patent
1205	18	2205 9 ** Reissue claims in excess of 20 and over original patent

**SUBTOTAL (2) (\$ 0.00)**

\*or number previously paid, if greater; For Reissues, see above

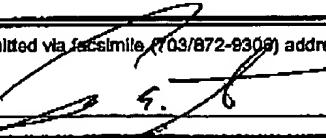
\*Reduced by Basic Filing Fee Paid **SUBTOTAL (3) (\$ 330.00)****SUBMITTED BY**

(Complete if applicable)

Name (Print/Type)	Gregory E. Stanton	Registration No. (Attorney/Agent)	45,127	Telephone	(312) 474-6300
Signature				Date	September 24, 2004

I hereby certify that this correspondence is being transmitted via facsimile (703/872-9309) addressed to: Commissioner of Patents, MS AF, on the date shown below.

Dated: September 24, 2004

Signature: 

(Gregory E. Stanton)